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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,403	03/12/2001	Aaron Strand	8362-DIV	1089

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MILWAUKEE, WI 53202

EXAMINER

THAKUR, VIREN A

ART UNIT	PAPER NUMBER
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1794

NOTIFICATION DATE	DELIVERY MODE
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09/05/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPAdmin@reinhartlaw.com

Office Action Summary	Application No. 09/804,403	Applicant(s) STRAND ET AL.	
	Examiner VIREN THAKUR	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,14,16,18,19,75,79,82-86,93,104,107-112,122-128 and 130-147 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1,2,6-9,14,16,18,19,75,79,82-86,93,104,107-112,122-128 and 130-147.

DETAILED ACTION

Response to Amendment

1. As a result of the amendment, the rejection of claims 125-128, 130-147 under 35 U.S.C. 112, second paragraph, has been withdrawn.
2. As a result of the amendment, the rejection of claim 104 under 35 U.S.C. 102(b) has been withdrawn.

Terminal Disclaimer

3. The terminal disclaimer filed on May 28, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7086782 has been reviewed and is accepted. The terminal disclaimer has been recorded.
4. The terminal disclaimer filed on May 28, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Application No. 10/300,355 has been reviewed and is accepted. The terminal disclaimer has been recorded.

5. The terminal disclaimer filed on May 28, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7165887 has been reviewed and is accepted. The terminal disclaimer has been recorded.

6. As a result of the filing of the terminal disclaimers, the double patenting rejections are withdrawn.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

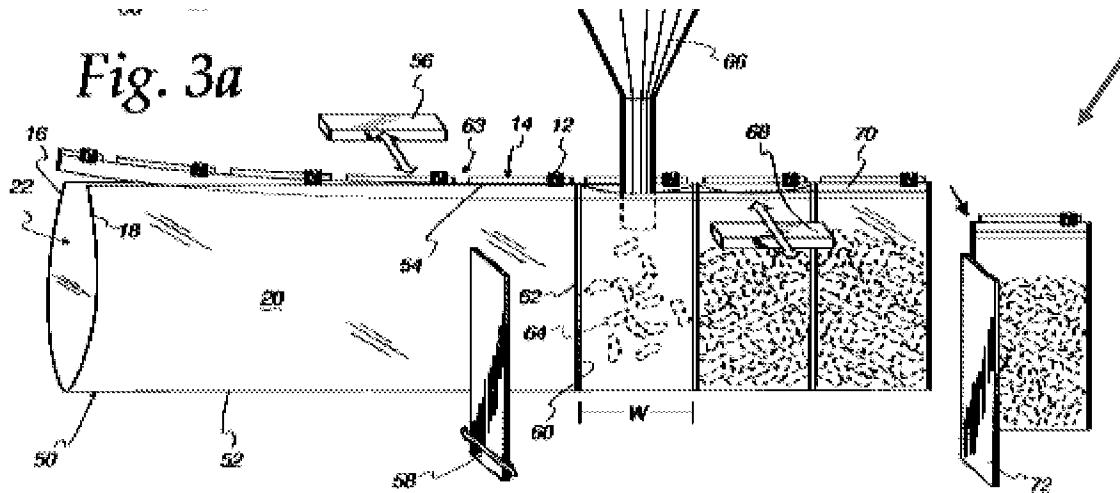
Art Unit: 1794

9. Claims 1, 2, 6-9, 14, 18, 19, 75, 79, 82-86, 104, 107-112, 122-130, 132, 134-137, and 142-147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belmont et al. (US 6327754 B1) in view of Stolmeier et al. (US 6257763), for the reasons given in the previous Office Action, mailed November 29, 2007, and in further view of Herrington, Jr. et al. (US 5131121), Buchman (US 6287001), Morgan (US 5442837) and Van Erden et al. (US 4759642) and Kuge et al. (US 5364189).

Regarding the new limitation to claims 1, 75, 104, 125 and 144 the claims differ from the combination of the references in specifically reciting wherein the reclosable fastener structure has a notch located at a corner at each of said first and second ends, said notches defining where a corner portion of said reclosable fastener structure that includes an end portion of said fastener halves as been removed and wherein the periphery of said notches as been sealed.

Regarding the notch, it can be seen from figure 3a of the Belmont reference, indicated by the red arrow, below, that the bag comprises a reclosable fastener which has a notch made therein. This can be considered a notch since the portion of the reclosable fastener structure that includes an end portion it is not the same length as

the rest of the fastener structure.



Regarding the sealing of the periphery of the notches, the combination of the prior art is not clear in this regard.

Nevertheless, it is noted that the concept of sealing the ends of the track of the reclosable fastener structure has been conventionally performed in the art, as evidenced by Herrington, Jr. et al., in figure 1a, for instance. In this case, it can be seen that the reclosable track (19) has a notch made therein, since it is not the same length as the rest of the fastener. The ends of the fastener tracks have been fused together for the purpose of preventing the slider from falling off the end of the track (column 4, lines 51-63). It can further be seen from figure 2 that the material which has been removed is part of the reclosable fastener track and also integrally includes the extending skirts (items 14 and 15).

Kuge et al. has also been cited in figure 11, to teach wherein the reclosable fastener structure is sealed and has a notch taken therefrom.

In addition, Buchman (US 6281001) has also been cited as further evidence of the conventionality of sealing the ends of the reclosable fastener tracks together (figure 4 and column 3, lines 57-64). Buchman teaches several examples of ways to seal the ends of the web that makes the bag as well as the reclosable fastener tracks.

Nevertheless, prior art has thus sealed the end of the web material that makes the bag and also has sealed the fastener track. Therefore, to modify the combination of the prior art and employ a fastener track which has a notch taken therefrom and then sealing the ends of the notch would have been obvious for the purpose of preventing the slider from coming off of the end of the track. Furthermore, since the prior art already teaches the concept of fusing the ends of the reclosable track structure together, the only difference between the combination of the prior art and that of the new limitation to the instant claims is the particular shape of the reclosable track structure. For instance, even Morgan (US 5442837) also appears to show an end portion (figure 3, item 23) which is extended compared to the portion of the reclosable fastener that is above it.

Since the combination of the prior art already teaches the reclosable track structure above the perforations that form the hood in the sheet of web material, such that the reclosable / engageable tracks extend above the sheet of web material and wherein the sides of the reclosable fastener have been sealed, when the hood has been removed, the particular shape would nevertheless have been an obvious matter of choice and/or design to one having ordinary skill in the art. For instance, Van Erden et al. (US 4759642) teach a diagonal shaped cut for the end which includes the end of the

Art Unit: 1794

reclosable fastener structure (figure 2) which are also sealed together (figure 2, item 24). Kuge et al. teach in figure 11, another type of shape to the reclosable fastener and end of the bag.

10. Claims 16, 93, 131, 138, 139, 141 as rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 2, 6-9, 14-18, 19, 75, 79, 82-86, 104, 107-112, 122-130, 132, 134-137 and 142-147, above and in further view of Hayashi et al. (US 5074097), for the reasons given in the previous Office Action, mailed November 29, 2007.

11. Claim 133 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied above to claims 1, 2, 6-9, 14, 18, 19, 75, 79, 82-86, 104, 107-112, 122-130, 132, 134-138 and 142-147 and in further view of May (US 5725312) for the reasons given in the previous Office Action, mailed November 29, 2007.

12. Claim 140 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 2, 6-9, 14-18, 19, 75, 79, 82-86, 104, 107-112, 122-130, 132, 134-138 and 142-147 in further view of Boeckmann et al., for the reason given in the previous Office Action, mailed of November 29, 2007.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6131369 discloses reclosable fasteners which are also above the perforations of the removable hood, as shown in figure 5. US 4589145 discloses sealing the ends of the reclosable fastener tracks (Figure 5).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIREN THAKUR whose telephone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steve Weinstein/
Primary Examiner, Art Unit 1794

/V. T./

Application/Control Number: 09/804,403

Page 9

Art Unit: 1794

Examiner, Art Unit 1794